



## Department of Health

ANDREW M. CUOMO  
Governor

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner

SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

August 17, 2017

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Mehran Manouel, M.D.  
76-55 Austin Street  
Forest Hills, New York 11375

Re: License No. 184765

Dear Dr. Manouel:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Modification Order No. 17-234. This order and any penalty provided therein goes into effect August 24, 2017.

Please direct any questions to: Board for Professional Medical Conduct, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204, telephone # 518-402-0846.

Sincerely,

A black rectangular redaction box covering the signature of Robert A. Catalano, M.D.

Robert A. Catalano, M.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Amy Kulb, Esq.  
Jacobson, Goldberg & Kulb, LLP.  
585 Stewart Avenue, Suite 720  
Garden City, New York 11530

IN THE MATTER  
OF  
MEHRAN MANOUEL, M.D.

MODIFICATION  
ORDER

Upon the proposed Application for a Modification Order of MEHRAN MANOUEL M.D.,  
(Respondent), which is made a part of this Modification Order, it is agreed to and

ORDERED, that the attached Application, and its terms, are adopted and SO  
ORDERED, and it is further

ORDERED, that this Modification Order shall be effective upon Issuance by the Board,  
either

- by mailing of a copy of this Modification Order, either by first class to Respondent  
at the address in the attached Application or by certified mail to Respondent's  
attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney,  
whichever is first.

SO ORDERED.

DATE: 8/16/2017

  
ARTHUR S. HENGERER, M.D.  
Chair  
State Board for Professional Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
MEHRAN MANOUEL, M.D.

MODIFICATION  
AGREEMENT  
AND  
ORDER

MEHRAN MANOUEL, M.D., represents that all of the following statements are true:

That on or about January 11, 1981, I was licensed to practice as a physician in the State of New York, and issued License No. 184765 by the New York State Education Department.

My current address is 76-55 Austin Street, Forest Hills, N.Y. 11375

and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I am currently subject to BPMC Order # 15-139 (Attachment I) (henceforth "Original Order"), which went into effect on June 5, 2015, and was issued upon an Application For Consent Order signed by me (henceforth Original Application"), and adopted by the Original Order. I hereby apply to the State Board for Professional Medical Conduct for an Order (henceforth "Modification Order"), modifying the Original Order, as follows:

The sanction imposed in the Original Order was:

- Probation for a period of 36 months, subject to the terms set forth in Exhibit "B" of the Original Order.
- A \$5,000 Fine. (The fine has been paid.)

The sanction imposed shall be modified to read as follows;

- On September 6, 2017, the period of probation imposed by the Original Order shall terminate in its entirety. Exhibit B of the Original Order shall no longer be of any effect.

and

All remaining Terms and Conditions will continue as written in the Original Order.

I make this Application of my own free will and accord and not under duress, compulsion or restraint, and seek the anticipated benefit of the requested Modification. In consideration of the value to me of the acceptance by the Board of this Application, I knowingly waive my right to contest the Original Order or the Modification Order for which I apply, whether administratively or judicially, and ask that the Board grant this Application.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE

08/14/17

  
MEHRAN MANOUEL, M.D.  
RESPONDENT

The undersigned agree to Respondent's attached Modification Agreement and to its proposed penalty, terms and conditions.


DATE: 8/14/17

  
AMY KOLB, ESQ.  
Attorney for Respondent

DATE: August 14, 2017

  
MARCIA E. KAPLAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 8/16/17

  
KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

ATTACHMENT I



Department  
of Health

PUBLIC

ANDREW M. CUOMO  
Governor

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner

SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

May 29, 2015

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Mehran Manouel, M.D.



RE: License No. 184765

Dear Dr. Manouel:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 15-139. This Order and any penalty provided therein goes into effect June 5, 2015.

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management  
New York State Department of Health  
Corning Tower, Room 2784  
Empire State Plaza  
Albany, New York 12237

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,



Katherine A. Hawkins, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

cc: Nathan Dembin, Esq.  
Nathan Dembin & Associates  
1123 Broadway, Suite 1117  
New York, New York 10010

Enclosure

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
MEHRAN MANOUEL, M.D.

CONSENT  
ORDER

BPMC:# 15-139

Upon the application of (Respondent) Mehran Manouel, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and  
it is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board,  
either

by mailing of a copy of this Consent Order, either by first class mail to Respondent at  
the address in the attached Consent Agreement or by certified mail to Respondent's  
attorney, OR

upon facsimile transmission to Respondent or Respondent's attorney,

whichever is first.

SO ORDERED.

DATE: May 28, 2015



ARTHUR S. HENGERER, M.D.  
Chair  
State Board for Professional Medical Conduct



NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
MEHRAN MANOUEL, M.D.

CONSENT  
AGREEMENT

Mehran Manouel, M.D., represents that all of the following statements are true:

That on or about January 11, 1991, I was licensed to practice as a physician in the State of New York, and issued License No. 184765 by the New York State Education Department.

My current address is [REDACTED], and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with one or more specifications of professional misconduct, as set forth in a Statement of Charges, marked as Exhibit "A", attached to and part of this Consent Agreement. Exhibit A reflects pending charges in a hearing that has commenced.

I assert that I cannot successfully defend against at least one of the acts of misconduct alleged, in full satisfaction of the charges against me, and agree to the following penalty:

- Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for a period of 36 months, subject to the terms set forth in attached Exhibit "B."
- Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall be subject to a fine in the amount of \$5,000.00 to be paid in full within 30 days of the effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management  
New York State Department of Health  
Corning Tower, Room 2784  
Empire State Plaza  
Albany, New York 12237

In making such payment, Respondent shall indicate the order number of this Order both on the payment check submitted and on the cover letter accompanying payment. Additionally, Respondent shall simultaneously mail a photocopy of the check and cover letter to:

Physician Monitoring Program  
Office of Professional Medical Conduct  
Riverview Center  
150 Broadway, Suite 355  
Albany, New York 12204-2719.

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall comply with each and every penalty imposed by this Order pursuant to N.Y. Pub. Health Law § 230-a; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall remain in continuous compliance with all requirements of N.Y. Pub. Health Law § 2995-a(4) and 10 NYCRR 1000.5, including but not limited to the requirements that a licensee shall: report to the department all information required by the Department to develop a public physician profile for the licensee; continue to notify the department of any change in profile information within 30 days of any change (or in the case of optional information, within 365 days of such change); and, in addition to such periodic reports and notification of any changes, update his or her profile information within six months prior to the expiration date of the licensee's registration period. Licensee shall submit changes to his or her

physician profile information either electronically using the department's secure web site or on forms prescribed by the department, and licensee shall attest to the truthfulness, completeness and correctness of any changes licensee submits to the department. This condition shall take effect 30 days after the Order's effective date and shall continue so long as Respondent remains a licensee in New York State. Respondent's failure to comply with this condition, if proven and found at a hearing pursuant to N.Y. Pub. Health Law § 230, shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(21) and N.Y. Educ. Law § 6530(29). Potential penalties for failure to comply with this condition may include all penalties for professional misconduct set forth in N.Y. Pub. Health Law §230-a, including but not limited to: revocation or suspension of license, Censure and Reprimand, probation, public service and/or fines of up to \$10,000 per specification of misconduct found; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or

federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Order.

Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the N.Y. Pub. Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Consent Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite

powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE

05/22/2015



MEHRAN MANOUEL, M.D.  
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.


DATE: 5/26/15

  
NATHAN L. DEMBIN, ESQ.  
Attorney for Respondent

DATE: 5/26/15

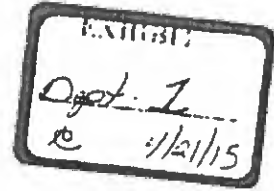
  
LESLIE EISENBERG  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 5/28/15

  
KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct



"Exhibit A"



NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

MEHRAN MANOUEL, M.D.

STATEMENT

OF

CHARGES

Mehran Manouel, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 11, 1991, by the issuance of license number 184765 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. Respondent initially treated Patient A, a 16 year-old male, on or about February 24, 2010, for injuries related to a motor vehicle accident that Patient A was in, on October 24, 2009. On March 23, 2010, with a pre-operative diagnosis of meniscus tear, Respondent performed a diagnostic arthroscopy on Patient A's right knee that purportedly included a 3-compartment synovectomy and, a lateral retinacular release.

1. Respondent performed right knee arthroscopy:
  - a. without an appropriate and adequate preoperative work-up including but not limited to failing to review imaging studies prior to performing surgery, and/or,
  - b. without first adequately pursuing conservative modalities.
2. A lateral release was not an appropriate procedure, if in fact there was any medical need for surgery and, if the procedure had in fact been performed.
3. There was no medical need for a 3-compartment synovectomy, if the procedure had in fact been performed.
4. Respondent inappropriately performed a diagnostic arthroscopy.
5. Respondent failed to appropriately follow-up on the patient post-operatively.

6. Respondent falsely reported and billed for purported surgical procedures including a 3-compartment synovectomy and, a lateral release, when he did not in fact perform those surgical procedures and/or those procedures were done without medical indication.
  - a. Respondent did so with intent to deceive.
7. Respondent failed to maintain a record that accurately reflects the evaluation and treatment of the patient.

B. Respondent initially treated Patient B, a 27 year-old male, on or about November 1, 2010, for injuries related to a motor vehicle accident that Patient B was in, on August 23, 2010. On November 9, 2010, with a pre-operative diagnosis of partial rotator cuff tear and labrum tear, Respondent performed a diagnostic arthroscopy on Patient B's left shoulder that purportedly included debridement of the anterior labrum and partial rotator cuff tear and, subacromial decompression and anterior acromioplasty and, distal clavectomy and, lysis and, resection and removal of bursal adhesions.

1. Respondent performed left shoulder arthroscopy:
  - a. without an appropriate and adequate preoperative work-up including but not limited to failing to review imaging studies prior to performing surgery, and/or,
  - b. without first adequately pursuing conservative modalities.
2. There was no medical need for debridement of the anterior labrum and partial rotator cuff tear and, subacromial decompression and anterior acromioplasty and, distal clavectomy and, lysis and, resection and removal of bursal adhesions, if those procedures had in fact been performed.
3. Respondent inappropriately performed a diagnostic arthroscopy.
4. Respondent failed to appropriately follow-up on the patient post-operatively.
5. Respondent falsely reported and billed for purported surgical procedures including debridement of the anterior labrum and partial rotator cuff tear and, subacromial decompression and anterior acromioplasty and, distal clavectomy and, lysis and, resection and removal of bursal adhesions, when he did not in

fact perform those surgical procedures and/or those procedures were done without medical indication.

a. Respondent did so with intent to deceive.

6. Respondent failed to maintain a record that accurately reflects the evaluation and treatment of the patient.

C. Respondent treated Patient C, a 27 year-old male, initially on January 19, 2011, for injuries related to a motor vehicle accident that Patient C was in, on December 22, 2010. On February 18, 2011, with a pre-operative diagnosis of internal derangement, Respondent performed a diagnostic knee arthroscopy on Patient C's left knee that purportedly included a 2-compartment synovectomy and chondroplasty of the patella. In addition, on March 18, 2011, with a pre-operative diagnosis of impingement and labral tear, Respondent performed a diagnostic arthroscopy on Patient C's left shoulder that purportedly included subacromial decompression, distal claviclectomy, lysis of bursal adhesions, extensive removal of bursa and, debridement of partial rotator cuff tear.

1. Respondent performed left knee arthroscopy and left shoulder arthroscopy:

- a. without an appropriate and adequate preoperative work-up including but not limited to failing to review imaging studies prior to performing surgery, and/or,
- b. without first adequately pursuing conservative modalities.

2. There was no medical need for the synovectomy or chondroplasty, if those procedures had in fact been performed.

3. There was no medical need for subacromial decompression, claviclectomy, lysis of bursal adhesions, extensive removal of bursa and, debridement of partial rotator cuff tear, if these procedures had in fact been performed.

4. Respondent inappropriately performed diagnostic arthroscopies.

5. Respondent failed to appropriately follow-up on the patient post-operatively, after both surgical procedures.

6. Respondent falsely reported and billed for purported surgical procedures including synovectomy, chondroplasty, decompression, claviclectomy, lysis of

adhesions and debridement of rotator cuff tear, when he did not in fact perform those procedures and/or when those procedures were done without medical indication.

- a. Respondent did so with intent to deceive.
7. Respondent failed to maintain a record that accurately reflects the evaluation and treatment of the patient.

D. Respondent treated Patient D, a 35 year-old male, initially on August 16, 2010, for injuries related to a motor vehicle accident that Patient D was in on July 6, 2010. On August 27, 2010, with a pre-operative diagnosis of partial rotator cuff tear, Respondent performed a diagnostic arthroscopy of Patient D's left shoulder that purportedly included debridement of frayed rotator cuff on the bursal surface, a bursectomy, subacromial decompression, anterior acromioplasty and distal clavicle resection.

1. Respondent performed left shoulder arthroscopy:
  - a. without an appropriate and adequate preoperative work-up including but not limited to failing to review imaging studies prior to performing surgery, and/or
  - b. without first adequately pursuing conservative modalities.
2. There was no medical need for debridement of frayed rotator cuff on the bursal surface, a bursectomy, subacromial decompression and, anterior acromioplasty and distal clavicle resection, if these procedures had in fact been performed.
3. Respondent failed to appropriately follow-up on the patient post-operatively.
4. Respondent inappropriately performed a diagnostic arthroscopy.
5. Respondent falsely reported and billed for purported surgical procedures including debridement of frayed rotator cuff on the bursal surface, a bursectomy, subacromial decompression, anterior acromioplasty and, distal clavicle resection when he did not in fact perform those procedures and/or when those procedures were done without medical indication.
  - a. Respondent did so with intent to deceive.
6. Respondent failed to maintain a record that accurately reflects the evaluation and treatment of the patient.

E. Respondent treated Patient E, a 41 year-old male, initially on February 18, 2008, for injuries related to a motor vehicle accident that Patient E was in, on January 26, 2008. On May 13, 2008, with a pre-operative diagnosis of meniscus tear, Respondent performed a diagnostic arthroscopy on Patient E's left knee that purportedly included partial medial and lateral meniscectomy, resection of medial plica and synovectomy with abrasion chondroplasty of the medial femoral condyle. Patient E reported to Respondent that he was in another motor vehicle accident on December 12, 2008. Thereafter, on March 2, 2009, with a pre-operative diagnosis of partial rotator cuff tear, Respondent performed a diagnostic arthroscopy on Patient E's left shoulder that purportedly included labral debridement, debridement of a bursal sided rotator cuff tear, extensive bursectomy with decompression and, distal clavicle resection.

1. Respondent performed left knee and left shoulder arthroscopy:
  - a. without an appropriate and adequate preoperative work-up including but not limited to failing to review imaging studies prior to performing surgery, and/or
  - b. without first adequately pursuing conservative modalities
2. There was no medical need for a partial medial and lateral meniscectomy, resection of medial plica and, synovectomy with abrasion chondroplasty, if those procedures had in fact been performed.
3. There was no medical need for labral debridement, debridement of a bursal sided rotator cuff tear and extensive bursectomy with decompression and distal clavicle resection, if those procedures had in fact been performed.
4. Respondent failed to appropriately follow-up on the patient post-operatively, after both surgical procedures.
5. Respondent inappropriately performed diagnostic arthroscopies.
6. Respondent falsely reported and billed for purported surgical procedures including partial medial and lateral meniscectomy, resection of medial plica and synovectomy with abrasion chondroplasty of the medial femoral condyle, labral debridement, debridement of a bursal sided rotator cuff tear, extensive bursectomy with decompression and, distal clavicle resection, when he did not

in fact perform those surgical procedures and/or those procedures were done without medical indication.

- a. Respondent did so with intent to deceive.
7. Respondent failed to maintain a record that accurately reflects the evaluation and treatment of the patient.

### **SPECIFICATION OF CHARGES**

#### **FIRST SPECIFICATION**

##### **NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of:

1. Paragraph A and its subparagraphs and/or Paragraph B and its subparagraphs and/or Paragraph C and its subparagraphs and/or Paragraph D and its subparagraphs and/or Paragraph E and its subparagraphs.

#### **SECOND SPECIFICATION**

##### **INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of:

2. Paragraph A and its subparagraphs and/or Paragraph B and its subparagraphs and/or Paragraph C and its subparagraphs and/or Paragraph D and its subparagraphs and/or Paragraph E and its subparagraphs.

### **THIRD-SEVENTH SPECIFICATIONS**

#### **FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

3. Paragraph A, A2, A3, A6 and A6a.
4. Paragraph B, B2, B5 and B5a.
5. Paragraph C, C2, C3, C6 and C6a.
6. Paragraph D, D2, D5 and D5a.
7. Paragraph E, E2, E3, E6 and E6a.

### **EIGHTH-TWELFTH SPECIFICATIONS**

#### **FALSE REPORT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(21) by willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

8. Paragraph A, A6 and A6a.
9. Paragraph B, B5 and B5a.
10. Paragraph C, C6 and C6a.
11. Paragraph D, D5 and D5a.
12. Paragraph E, E6 and E6a.

#### **THIRTEENTH THROUGH SEVENTEENTH SPECIFICATIONS**

##### **UNWARRANTED TESTS/TREATMENT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(35) by ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient, as alleged in the facts of:

13. Paragraph A, A2, A4 and A6.
14. Paragraph B, B2, B3 and B5.
15. Paragraph C, C2, C3, C4 and C6.
16. Paragraph D, D2, D4 and D5.
17. Paragraph E, E2, E3, E5 and E6.

#### **EIGHTEENTH THROUGH TWENTYSECOND SPECIFICATIONS**

##### **FAILURE TO MAINTAIN RECORDS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

18. Paragraph A and A7



19. Paragraph B and B6.
20. Paragraph C and C7.
21. Paragraph D and D6.
22. Paragraph E and E7.

DATE: March 17, 2015  
New York, New York



Roy Nemerson  
Deputy Counsel  
Bureau of Professional Medical Conduct

## EXHIBIT "B"

### **Terms of Probation**

- 1) Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
- 2) Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
- 3) Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
- 4) The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
- 5) The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
- 6) Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.

- 7) Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.
- 8) Within thirty days of the Consent Order's effective date, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.
  - a) Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
  - b) Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - c) Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
  - d) Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

- 9) Payment of the fine imposed is also a term of probation. The fine is payable in full within 30 days of the effective date of this Order. Payments must be submitted to:

Bureau of Accounts Management  
New York State Department of Health  
Empire State Plaza  
Corning Tower, Room 2784  
Albany, New York 12237.

Respondent shall indicate the order number of this Order both on the payment check submitted and on the cover letter accompanying payment. Additionally, Respondent shall simultaneously mail a photocopy of the check and cover letter to:

Physician Monitoring Program  
Office of Professional Medical Conduct  
Riverview Center  
150 Broadway, Suite 355  
Albany, New York 12204-2719.

- 10) Respondent shall enroll in and successfully complete a continuing education program in the area of ethics, risk management and documentation. This continuing education program is subject to the Director of OPMC's prior written approval and shall be successfully completed within the first 90 days of the probation period.
- 11) Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.